[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2019-BT-TP-0025]

RIN 1904-AE55

Energy Conservation Program: Test Procedure for Commercial Prerinse Spray Valves

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (DOE) is requesting information and data through this request for information ("RFI") to consider whether to amend DOE's test procedures for commercial prerinse spray valves. Specifically, DOE seeks data and information pertinent to whether amended test procedures would (1) more accurately or fully comply with the requirement that the test procedure be reasonably designed to produce test results that measure water use during a representative average use cycle or period of use without being unduly burdensome to conduct, or (2) reduce test burden. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI), as well as the submission of data and other relevant information.

DATES: Written comments and information will be accepted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2019-BT-TP-0025, by any of the following methods:

1. *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
2. *E-mail*: to *CPSV2019TP0025@ee.doe.gov*. Include docket number EERE-2019-BT-TP-0025 in the subject line of the message.
3. *Postal Mail*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc ("CD"), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies ("faxes") will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

*Docket***:** The docket for this activity, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=69&action=viewcurrent*. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1604. E-mail: *ApplianceStandardsQuestions@ee.doe.gov*.

Ms. Kathryn McIntosh, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-2002. Email: *Kathryn.McIntosh@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by e-mail: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

DOE's test procedures for commercial prerinse spray valves are prescribed at Subpart O of 10 CFR part 431. The following sections discuss DOE's authority to establish and amend test procedures for commercial prerinse spray valves and relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority and Background

The Energy Policy and Conservation Act, as amended ("EPCA")[1], among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B[2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes commercial prerinse spray valves. EPCA provides for the definition of commercial prerinse spray valve at 42 U.S.C. 6291(33), the test procedure under 42 U.S.C. 6293(b)(14), and energy conservation standards (in terms of flow rate) under 42 U.S.C. 6295(dd).[3]

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).
[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.
[3] Because Congress included commercial prerinse spray valves in Part B of Title III of EPCA, the consumer product provisions of Part B (not the industrial equipment provisions of Part C) apply to commercial prerinse spray valves. However, because commercial prerinse spray valves are commonly considered to be commercial equipment, as a matter of administrative convenience and to minimize confusion among interested parties, DOE placed the requirements for commercial prerinse spray valves into subpart O of 10 CFR part 431. Part 431 contains DOE regulations for commercial and industrial equipment. DOE refers to commercial prerinse spray valves as either "products" or "equipment."

Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2))

EPCA requires DOE to use American Society of Testing and Materials ("ASTM") Standard F2324 ("ASTM F2324") as the basis for the test procedure for

measuring flow rate. (42 U.S.C. 6293(b)(14)) EPCA also requires that, at least once every seven years, DOE evaluate test procedures for each type of covered product, including commercial prerinse spray valves, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the *Federal Register* proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to water use of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedure. DOE is publishing this RFI to collect data and information to inform its decision in satisfaction of the seven-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

B. Rulemaking History

DOE last amended the current test procedure for commercial prerinse spray valves on December 30, 2015, when DOE incorporated by reference the updated version of ASTM Standard F2324, *i.e.*, the 2013 version ("ASTM F2324-13"). 80 FR 81441 ("December 2015 CPSV Final Rule"). Prior to the December 2015 CPSV Final Rule, DOE had incorporated by reference the 2009 version of ASTM Standard F2324. In the December 2015 final rule, DOE also revised the definition of "commercial prerinse spray valve," made minor changes to the DOE flow rate test method, and added a definition of "spray force" as well as a test method for measuring the spray force of commercial prerinse spray valves. On January 27, 2016, DOE published an energy conservation standards final rule that established three product classes based on spray force and established maximum flow rate requirements for each product class. 81 FR 4748, 4801.

In 2019, ASTM reaffirmed its 2013 standard ("ASTM F2324-13 (2019)").

II. Request for Information

As an initial matter, DOE seeks comment on whether there have been changes in product testing methodology or new products on the market since the last test procedure update that may necessitate amendments to the test procedure for commercial prerinse spray valves. Specifically, DOE seeks data and information regarding whether the current test procedure produces results that are representative of an average use cycle for the product and is not unduly burdensome to conduct, and therefore does not need amendment.

In the following sections, DOE has also identified a variety of issues on which it seeks input to determine whether amended test procedures for commercial prerinse spray valves would more accurately or fully comply with the requirements in EPCA that test procedures: (1) be reasonably designed to produce test results which reflect energy use during a representative average use cycle, and (2) not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

DOE also issued an RFI to seek more information on whether its test procedures are reasonably designed, as required by EPCA, to produce results that measure the energy (and water) use or efficiency of a product during a representative average use cycle or period of use. 84 FR 9721 (March 18, 2019). DOE seeks comment on this issue as it pertains to the test procedure for commercial prerinse spray valves.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process. In particular, DOE notes that under Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," Executive Branch agencies, such as DOE, are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to commercial prerinse spray valves consistent with the requirements of EPCA.

A. Scope and Definitions

EPCA initially defined a "commercial prerinse spray valve" as "a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items." (42 U.S.C. 6291(33)(A)) EPCA authorizes DOE to modify the definition of commercial prerinse spray valves by rule to include products (1) that are used extensively in conjunction with commercial dishwashing and ware washing equipment, (2) to which the application of standards would result in significant energy savings, and (3) to which the application of standards would not be likely to result in the unavailability of any covered product type currently available on the market. (42 U.S.C. 6291(33)(B)(i)) EPCA also authorizes DOE to modify the commercial prerinse spray valve definition to exclude products (1) that are used for special food service applications, (2) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment, and (3) to which the application of standards would not result in significant energy savings. (42 U.S.C. 6291(33)(B)(ii)) In the December 2015 CPSV Final Rule, DOE amended the definition of commercial prerinse spray valve to "a handheld device that has a release-to-close valve and is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment." 10 CFR 431.262.

In determining whether a product is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment, DOE considers various factors including channels of marketing and sales,

product design and descriptions, and actual sales to determine whether the spray valve is used extensively in conjunction with commercial dishwashing and ware washing equipment. 81 FR 81441, 81444. For example, a product marketed or sold through outlets that market or sell to food service entities such as restaurants or commercial or institutional kitchens is more likely to be used as a commercial prerinse spray valve than one marketed or sold through outlets catering to pet care. Similarly, a product marketed outside of the United States as suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment would be considered similarly suitable if distributed in the United States. DOE also considers how a product is marketed and sold to end-users, including how the product is identified and described in product catalogs, brochures, specification sheets, and communications with prospective purchasers. *Id.* Additionally, DOE considers actual sales, including whether the end-users are restaurants or commercial or institutional kitchens, even if those sales are indirect through an entity such as a distributor. *Id.*

Although manufacturers may market different categories of spray valves for various uses, such as cleaning floors or walls or filling glasses, any such device that is suitable for use in conjunction with commercial dishwashing and ware washing equipment to spray water for the purpose of removing food residue that is a handheld device that has a release-to-close valve is a commercial prerinse spray valve. See, 80 FR 35874, 35876-35877. Installation location is not a factor in determining whether a given model meets the definition of commercial prerinse spray valve. *Id.*

The CPSV definition generally does not include products that are commonly referred to as "pot fillers." A pot filler would not be considered a commercial prerinse spray valve because it is not suitable to be used for rinsing dishware before washing in a commercial dishwasher. A pot filler is used to fill a container with water, whereas a commercial prerinse spray valve is used to remove food residue from dishware. Consumers generally would not install a pot filler to be used as a commercial prerinse spray valve. In addition, most pot fillers are usually rigidly mounted to a wall with a swing arm, and are thus not handheld devices. See, 80 FR 81444.

Issue 1: DOE requests comment on how manufacturers are currently applying the definition of "commercial prerinse spray valve."

Issue 2: DOE requests comments on whether modifications to the definition are needed to more appropriately include products (1) that are used extensively in conjunction with commercial dishwashing and ware washing equipment, (2) to which the application of standards would result in significant energy savings, and (3) to which the application of standards would not be likely to result in the unavailability of any covered product type currently available on the market. DOE also requests comments on whether the definition should be modified to more appropriately exclude products (1) that are used for special food service applications, (2) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment, and (3) to which the application of standards would not result in significant energy savings. If modifications

are needed, DOE requests comment on how commercial prerinse spray valve should be defined.

B. Test Procedure

1. Industry Standard

Currently, DOE's test procedure for commercial prerinse spray valves at 10 CFR part 431.263 incorporates by reference ASTM Standard F2324-13. The applicable sections of ASTM Standard F2324-13 are sections 6.1 through 6.9 (except 6.4 and 6.7), 9.1 through 9.4, and 10.1 through 10.2.5 for the flow rate test method with calculations conducted according to section 11.3.1; and sections 6.2 and 6.4 through 6.9, 9.1 through 9.5.3.2, and 10.3.1 through 10.3.8 for the spray force test method.

Since publication of the December 2015 final rule, ASTM F2324-13 has been reapproved to ASTM F2324-13 (2019). The 2019 version contains no changes from the 2013 version.

Issue 3: DOE requests comments on updating the CPSV test procedure references to incorporate the reaffirmed industry standard ASTM F2324-13 (2019), and confirmation that such an update would not result in any substantive changes to the current test procedure.

2. Water Pressure

As described previously, EPCA requires that any test procedures prescribed or amended by DOE be reasonably designed to produce test results which measure energy

(and water) efficiency, energy (and water) use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) ASTM F2324-13 specifies testing with a water pressure of 60 ±2 pounds per square inch ("psi"). In the December 2015 CPSV Final Rule, DOE concluded that 60 psi is representative of the water pressures observed across the nation, based on review of water pressure data for commercial kitchens across the U.S. 80 FR 81441, 81446-81447.

Issue 4: DOE requests data and comment on whether the test pressure of 60±2 psi continues to be representative of average U.S. water pressures in commercial kitchen settings.

C. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for commercial prerinse spray valves. As noted previously, DOE recently issued an RFI to seek more information on whether its test procedures are reasonably designed, as required by EPCA, to produce results that measure the energy (and water) use or efficiency of a product during a representative average use cycle or period of use. 84 FR 9721 (Mar. 18, 2019). DOE seeks comment on this issue as it pertains to the test procedure for commercial prerinse spray valves.

DOE also requests comments on whether potential amendments based on the issues discussed would result in a test procedure that is unduly burdensome to conduct,

particularly in light of any new equipment on the market since the last test procedure update. As discussed, the DOE test procedure incorporates specific provisions of the industry standard ASTM F2324-13. DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

Additionally, DOE requests comment on whether the existing test procedures limit a manufacturer's ability to provide additional features to consumers on commercial prerinse spray valves. DOE particularly seeks information on how the test procedures could be amended to reduce the cost of new or additional features and make it more likely that such features are included on commercial prerinse spray valves, while still meeting the requirements of EPCA.

Finally, DOE also requests comments on any potential amendments to the existing test procedure that would address impacts on manufacturers, including small businesses.

III. Submission of Comments

DOE invites all interested parties to submit in writing by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***], comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended test procedures for commercial prerinse spray valves. These comments and information will aid in the development of a test

procedure NOPR for commercial prerinse spray valves if DOE determines that amended test procedures may be appropriate for this equipment.

Submitting comments via http://www.regulations.gov. The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ("CBI")). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments

received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287-1445 or via e-mail at *ApplianceStandardsQuestions@ee.doe.gov*.

Signing Authority

This document of the Department of Energy was signed on May 8, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, D.C., on May 8, 2020.

_____

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

[FR Doc. 2020-11768 Filed: 6/4/2020 8:45 am; Publication Date: 6/5/2020]